

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

CORBETT JONES

PLAINTIFF

VERSUS

Civil Action No. 2:22-cv-93-KS-MTP

JONES COUNTY, MS; SHERIFF JOE
BERLIN; DEPUTY JAMES MANN; SGT.
JESSE JAMES; DEPUTY COLTON
DENNIS; CAROL JOHNSTON;
JANET HENDERSON; AND
DEPUTY MEKEDES COLEMAN,

DEFENDANTS

**JONES COUNTY, MS, SHERIFF JOE BERLIN, AND JENNIFER
HENDERSON'S RESPONSE IN OPPOSITION TO PLAINTIFF'S
MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Come now Jones County, MS, Sheriff Joe Berlin, and Jennifer Henderson (collectively "Respondents"), by and through counsel submit their Response in Opposition to Plaintiff's Motion for Leave to File Second Amended Complaint.

In support of the same, Respondents, as required by Rule 7(b)(4) of the Local Uniform Civil Rules of the United States District Courts for the Northern and Southern Districts of Mississippi, are simultaneously filing a memorandum brief setting forth arguments and authorities related to the following grounds for this Court to deny Plaintiff's Motion.

1. Plaintiff's Motion, pursuant to Rule 17(a)(3) of the Federal Rules of Civil Procedure, seeks to now add the recently-opened Estate of Andrew Wesley Jones, Deceased, as a party to this litigation, two (2) years, six (6) months, and eighteen (18) days

after Andrew's death, and one (1) year and thirteen (13) days from the date Plaintiff filed his initial Complaint. This Court should deny Plaintiff's Motion, with prejudice.

2. The primary question presented here is whether Plaintiff's initial failure to open and administer Andrew's Estate was a reasonable and understandable mistake. As set forth in detail in Respondents' Memorandum, Plaintiff's decision to file suit before opening the Estate was not a mistake but a clear choice. Furthermore, whether a choice or a mistake, it was neither reasonable nor understandable.

3. This Court, therefore, must deny Plaintiff's Motion because it fails to satisfy Rule 17's requirements, particularly since neither Plaintiff's Motion nor Memorandum assert that it was difficult for Plaintiff to determine the correct party to file suit.

4. Furthermore, the Court must deny Plaintiff's Motion inasmuch as its underlying legal argument does not comport with the entirety of the case from which the argument comes.

WHEREFORE, PREMISES CONSIDERED, based upon the grounds above, which are set forth in greater detail within Jones County, MS, Sheriff Joe Berlin, and Jennifer Henderson's supporting Memorandum of Authorities, Respondents respectfully request this Court dismiss Plaintiff's Motion for Leave to File Second Amended Complaint, with prejudice.

DATE: August 17, 2023.

Respectfully submitted,

**JONES COUNTY, MISSISSIPPI,
SHERIFF JOE BERLIN, AND
JENNIFER HENDERSON**

By: /s/Lance W. Martin
One of Their Attorneys

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CERTIFICATE

I, the undersigned of Allen, Allen, Breeland & Allen, PLLC, one of the attorneys for Defendants Jones County, Mississippi, Sheriff Joe Berlin, and Jennifer Henderson hereby certify that on this day, I filed the foregoing Response in Opposition to Plaintiff's Motion for Leave to File Second Amended Complaint with the Clerk of the Court using the ECF system, which gave notice of the same to the following:

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This, the 17th day of August, 2023.

/s/ Lance W. Martin

OF COUNSEL